

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE  
AT NASHVILLE

**STATE OF TENNESSEE v. MARIA VICTORIA CRUZ**

**Appeal from the Circuit Court for Dickson County  
No. 682231F-02 George Sexton, Judge**

---

**No. M2003-03048-CCA-R3-CD - Filed October 19, 2004**

---

The appellant, Maria Victoria Cruz, appeals her conviction of speeding and 30 day suspended sentence and fine of fifty dollars. The State has filed a motion requesting that this Court affirm the trial court's judgment pursuant to Rule 20, Rules of the Court of Criminal Appeals. After a review of the record, this court determines that the State's motion should be granted. Appellant has failed to present an adequate record for review. Accordingly, the State's motion is granted and the judgment of the trial court is affirmed.

**Tenn. R. App. P. 3; Judgment of the Circuit Court Affirmed Pursuant to Rule 20, Rules of  
the Court of Criminal Appeals**

ROBERT W. WEDEMEYER, J., delivered the opinion of the court, in which DAVID H. WELLES and, JERRY L. SMITH, JJ., joined.

Maria Victoria Cruz, pro se.

Paul G. Summers, Attorney General & Reporter; Renee W. Turner, Assistant Attorney General, for the appellee, State of Tennessee.

**MEMORANDUM OPINION**

Following a jury trial, the appellant was convicted of speeding and was given a 30 day suspended sentence and a fifty dollar fine. The appellant filed a motion for new trial, which was denied. On appeal, the appellant raises the following issues: "1. The finding of guilt by the jury was against the manifest weight of the evidence. 2. Videotape introduced was highly prejudicial and irrelevant and should not have been admitted into evidence. 3. [The] case should have been dismissed as a matter of law. 4. The trial court violated the appellant's constitutional rights."

In reviewing the appellate record, the court notes that the appellant failed to include the affidavit of complaint, her motion for appointment of counsel, an affidavit of indigence filed in the trial court, the trial court's order denying appointment of counsel, and a transcript or statement of the evidence. As the state correctly argues, it is the appellant's duty to prepare an adequate record for review. Tenn. R. App. P. 24(b). In State v. Ballad, 855 S.W.2d 557, 560-61 (Tenn. 1993), the Supreme Court determined that "[where the record is incomplete and does not contain a transcript of the proceedings relevant to an issue presented for review, or portions of the record upon which the party relies, an appellate court is precluded from considering the issue."

This court cannot address the appellant's first three issues because the appellant failed to include a transcript or statement of the evidence. The appellant argues in a response to the State's motion to affirm that she could not present a transcript because a transcript was not recorded in her case. However, there is nothing in the appellate record certified by the trial court confirming this allegation. Moreover, the Rules of Appellate Procedure specifically address how an appellant should proceed when a transcript is unavailable. The Rules require that a statement of the evidence be prepared and approved by the trial court. Tenn. R. App. P. 24(c). The record contains neither a transcript nor a statement of the evidence. Therefore, this court cannot review the appellant's first three issues. When the record is incomplete and does not contain the proceedings and documents relevant to the issues, this Court must conclusively presume that the ruling of the trial court was correct. State v. Boling, 840 S.W.2d 944, 951 (Tenn. Crim. App. 1992); State v. Locke, 771 S.W.2d 132, 138 (Tenn. Crim. App. 1988).

The appellant contends in her fourth issue that the trial court violated her constitutional rights by denying her counsel. However, there is nothing in the record before this court declaring the appellant indigent. Defendants in Tennessee are appointed counsel in felony and misdemeanor cases where the defendant is in jeopardy of incarceration only after a finding by the trial court that the defendant is indigent. Tenn. S. Ct R. 13 Sec. 1(d)(1). There is no such finding in the record before this court. Moreover, the record is devoid of evidence that the appellant requested counsel in the trial court. Accordingly, the appellant's fourth issue relating to the trial court's error in failing to appoint counsel is without merit.

There being no evidence in the record to support the appellant's allegations on appeal, the State's motion is granted. The judgment of the trial court is affirmed in accordance with Rule 20, Rules of the Court of Criminal Appeals.

---

ROBERT W. WEDEMEYER, JUDGE